

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

STEPHEN T. SMITH,

Plaintiff,

vs.

CASE NO. 04-CV-72941-DT  
HON. LAWRENCE P. ZATKOFF

COMMISSIONER OF  
SOCIAL SECURITY,

Defendant.

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**OPINION AND ORDER ADOPTING MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff filed the instant action seeking Social Security disability insurance benefits. This matter is currently before the Court on Magistrate Judge Capel's Report and Recommendation of July 28, 2005, in which the Magistrate Judge recommends that Plaintiff's Motion for Summary Judgment be granted in part, Defendant's Motion for Summary Judgment be denied, and that the case be remanded to the Defendant Commissioner for proceedings consistent with the Report and Recommendation.

After a thorough review of the court file, the respective parties' motions, the Report and Recommendation, the Defendant's objections to the Report and Recommendation and Plaintiff's reply to Defendant's objections, this Court will adopt the Report and Recommendation and enter it as the findings and conclusions of this Court.

Therefore, IT IS HEREBY ORDERED that Defendant's Motion for Summary Judgment is DENIED. Plaintiff's Motion for Summary Judgment is GRANTED IN PART. In addition, the Court hereby REMANDS this matter to the Defendant Commissioner for proceedings consistent with the Report and Recommendation.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff  
LAWRENCE P. ZATKOFF  
UNITED STATES DISTRICT JUDGE

Dated: December 19, 2005

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on December 19, 2005.

s/Marie E. Verlinde  
Case Manager  
(810) 984-3290